·	Application No.	Applicant(s)
Notice of Allowability	10/683,756	HARRISON ET AL.
	Examiner	Art Unit
	Yevgeny Valenrod	1621
The MAILING DATE of this communication app All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85 NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT R of the Office or upon petition by the applicant. See 37 CFR 1.31	S (OR REMAINS) CLOSED in) or other appropriate communication is second communication in second commu	this application. If not included unication will be mailed in due course. THIS
1. A This communication is responsive to <u>amendment to claim</u>	<u>s</u> .	
2. X The allowed claim(s) is/are <u>1-37</u> .		•
 3. Acknowledgment is made of a claim for foreign priority u a) All b) Some* c) None of the: 1. Certified copies of the priority documents hav 2. Certified copies of the priority documents hav 	e been received.	
Copies of the certified copies of the priority do	• •	
International Bureau (PCT Rule 17.2(a)).		and this haddral stage application from the
* Certified copies not received:		
Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONI THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.	MENT of this application.	
 A SUBSTITUTE OATH OR DECLARATION must be subn INFORMAL PATENT APPLICATION (PTO-152) which giv 	nitted. Note the attached EXA res reason(s) why the oath or	MINER'S AMENDMENT or NOTICE OF declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") mu	st be submitted.	•
(a) 🗌 including changes required by the Notice of Draftsper	son's Patent Drawing Review	v (PTO-948) attached
1) 🗌 hereto or 2) 🔲 to Paper No./Mail Date	<u>.</u> .	
(b) including changes required by the attached Examiner Paper No./Mail Date		
Identifying indicia such as the application number (see 37 CFR each sheet. Replacement sheet(s) should be labeled as such in	1.84(c)) should be written on the the header according to 37 CF	ne drawings in the front (not the back) of R 1.121(d).
 DEPOSIT OF and/or INFORMATION about the deposit attached Examiner's comment regarding REQUIREMENT 	osit of BIOLOGICAL MATE FOR THE DEPOSIT OF BIO	ERIAL must be submitted. Note the DLOGICAL MATERIAL.
Attachment(s) 1. ☐ Notice of References Cited (PTO-892)	5 □ Notice of Int	ormal Patent Application
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)	6. ⊠ Interview Su	ımmary (PTO-413),
 Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 4/19/06 		Mail Date <u>12/27/06</u> . Amendment/Comment
Examiner's Comment Regarding Requirement for Deposit of Biological Material		Statement of Reasons for Allowance
	9.	- <u> </u>
		THURMAN K. PAGE SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1600

DETALED ACTION

Election Restriction

Applicants' election with traverse of group II, claims 1-15, 16-34 and 38, where "X" = N is acknowledged.

Applicants' argument that the search of the full scope of claims will not constitute unreasonable burden on the office is not found persuasive. Identity of "X" places compounds in various different classes. For example when X is Nitrogen the compounds are classified in 564+ and when "X" is Oxygen the compounds are classified in 560+. Restriction is made final.

<u>Rejoinder</u>

Claims 1-34 where X = nitrogen, are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 35-37, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, the restriction requirement between groups II and IV as set forth in the Office action mailed on 4/24/06 is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present

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application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowance

Claims 1-34 are directed towards a novel compound. Prior art search failed to identify a reference that anticipates or suggests the compound of claims 1-34. The only references depicting the same type of compounds were the applicants' own publications which were published after the filing date of the provisional application. WO 99/65932 (WO99) constitutes closes art. Compounds in the said art bear limited structural similarity to the instantly claimed compounds. Although the compounds in WO99 have the aryl substituted alkyl substituents off of the core structure and the heteroatoms on the core are positioned in approximately the same positions, the difference between the prior art and the instant claims is considerable and there is no motivation to alter the invention of WO99 in a manner that would furnish the instantly claimed compounds.

Some of the differences are: lack of double bond in WO99, different oxidation states of the heteroatoms that are attached to the core and extra amide groups present in WO99.

Conclusion

Claims 1-37 are allowed.

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Claim 38 is canceled by applicant amendment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yevgeny Valenrod whose telephone number is 571-272-9049. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Yevgeny Valenrod Patent Examiner

Technology Center 1600

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Thurman Page

Supervisory Patent Examiner Technology Center 1600